

SHB 2678 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 70.148.020 and 2005 c 518 s 942 are each amended to
4 read as follows:

5 (1) The pollution liability insurance program trust account is
6 established in the custody of the state treasurer. All funds
7 appropriated for this chapter and all premiums collected for
8 reinsurance shall be deposited in the account. Expenditures from the
9 account shall be used exclusively for the purposes of this chapter
10 including payment of costs of administering the pollution liability
11 insurance and underground storage tank community assistance programs.
12 Expenditures for payment of administrative and operating costs of the
13 agency are subject to the allotment procedures under chapter 43.88 RCW
14 and may be made only after appropriation by statute. No appropriation
15 is required for other expenditures from the account.

16 (2) Each calendar quarter, the director shall report to the
17 insurance commissioner the loss and surplus reserves required for the
18 calendar quarter. The director shall notify the department of revenue
19 of this amount by the fifteenth day of each calendar quarter.

20 (3) Each calendar quarter the director shall determine the amount
21 of reserves necessary to fund commitments made to provide financial
22 assistance under RCW 70.148.130 to the extent that the financial
23 assistance reserves do not jeopardize the operations and liabilities of
24 the pollution liability insurance program. The director shall notify
25 the department of revenue of this amount by the fifteenth day of each
26 calendar quarter. The director may immediately establish an initial
27 financial assistance reserve of five million dollars from available
28 revenues. The director may not expend more than fifteen million
29 dollars for the financial assistance program.

1 (4) During the 2005-2007 fiscal biennium, the legislature may
2 transfer from the pollution liability insurance program trust account
3 to the state general fund such amounts as reflect the excess fund
4 balance of the account.

5 (5) This section expires June 1, (~~2007~~) 2013.

6 **Sec. 2.** RCW 70.148.050 and 1998 c 245 s 115 are each amended to
7 read as follows:

8 The director has the following powers and duties:

9 (1) To design and from time to time revise a reinsurance contract
10 providing coverage to an insurer meeting the requirements of this
11 chapter. Before initially entering into a reinsurance contract, the
12 director shall prepare an actuarial report describing the various
13 reinsurance methods considered by the director and describing each
14 method's costs. In designing the reinsurance contract the director
15 shall consider common insurance industry reinsurance contract
16 provisions and shall design the contract in accordance with the
17 following guidelines:

18 (a) The contract shall provide coverage to the insurer for the
19 liability risks of owners and operators of underground storage tanks
20 for third party bodily injury and property damage and corrective action
21 that are underwritten by the insurer.

22 (b) In the event of an insolvency of the insurer, the reinsurance
23 contract shall provide reinsurance payable directly to the insurer or
24 to its liquidator, receiver, or successor on the basis of the liability
25 of the insurer in accordance with the reinsurance contract. In no
26 event may the program be liable for or provide coverage for that
27 portion of any covered loss that is the responsibility of the insurer
28 whether or not the insurer is able to fulfill the responsibility.

29 (c) The total limit of liability for reinsurance coverage shall not
30 exceed one million dollars per occurrence and two million dollars
31 annual aggregate for each policy underwritten by the insurer less the
32 ultimate net loss retained by the insurer as defined and provided for
33 in the reinsurance contract.

34 (d) Disputes between the insurer and the insurance program shall be
35 settled through arbitration.

36 (2) To design and implement a structure of periodic premiums due

1 the director from the insurer that takes full advantage of revenue
2 collections and projected revenue collections to ensure affordable
3 premiums to the insured consistent with sound actuarial principles.

4 (3) To periodically review premium rates for reinsurance to
5 determine whether revenue appropriations supporting the program can be
6 reduced without substantially increasing the insured's premium costs.

7 (4) To solicit bids from insurers and select an insurer to provide
8 pollution liability insurance to owners and operators of underground
9 storage tanks for third party bodily injury and property damage and
10 corrective action.

11 (5) To monitor the activities of the insurer to ensure compliance
12 with this chapter and protect the program from excessive loss exposure
13 resulting from claims mismanagement by the insurer.

14 (6) To monitor the success of the program and periodically make
15 such reports and recommendations to the legislature as the director
16 deems appropriate, and to annually publish a financial report on the
17 pollution liability insurance program trust account showing, among
18 other things, administrative and other expenses paid from the fund.

19 (7) To annually report the financial and loss experience of the
20 insurer as to policies issued under the program and the financial and
21 loss experience of the program to the legislature.

22 ~~(8) ((To evaluate the effects of the program upon the private
23 market for liability insurance for owners and operators of underground
24 storage tanks and make recommendations to the legislature on the
25 necessity for continuing the program to ensure availability of such
26 coverage.~~

27 ~~(9))~~ To enter into contracts with public and private agencies to
28 assist the director in his or her duties to design, revise, monitor,
29 and evaluate the program and to provide technical or professional
30 assistance to the director.

31 ~~((+10))~~ (9) To examine the affairs, transactions, accounts,
32 records, documents, and assets of insurers as the director deems
33 advisable.

34 **Sec. 3.** RCW 70.148.900 and 2000 c 16 s 1 are each amended to read
35 as follows:

36 This chapter shall expire June 1, ~~((2007))~~ 2013.

1 **Sec. 4.** RCW 70.149.900 and 2000 c 16 s 2 are each amended to read
2 as follows:

3 Sections 1 through 11 of this act shall expire June 1, ((2007))
4 2013.

5 **Sec. 5.** RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read
6 as follows:

7 This chapter shall expire on June 1, ((2007)) 2013, coinciding with
8 the expiration of chapter 70.148 RCW.

9 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
10 repealed:

- 11 (1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);
- 12 (2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and
- 13 (3) 2005 c 428 s 4 (uncodified)."

SHB 2678 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/03/2006

14 On page 1, line 1 of the title, after "agency;" strike the
15 remainder of the title and insert "amending RCW 70.148.020, 70.148.050,
16 70.148.900, 70.149.900, and 82.23A.902; repealing 2000 c 16 s 4 and
17 1998 c 245 s 178 (uncodified); repealing 2000 c 16 s 5 and 1997 c 8 s
18 3 (uncodified); repealing 2005 c 428 s 4 (uncodified); and providing an
19 expiration date."

--- END ---